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10/582,034

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Debbi Bilia Metaxas

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EXAMINER

FETSUGA, ROBERT M

ART UNIT

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/582,034	<b>Applicant(s)</b> METAXAS, DEBBI BILIA	
	<b>Examiner</b> Robert M. Fetsuga	<b>Art Unit</b> 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 5,7,11,13 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,6,8-10,12 and 14-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>06/06/2006 &amp; 06/07/2007</u> . | 6) <input type="checkbox"/> Other: _____  |

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1. Applicant's election without traverse of Species I in the reply filed on April 08, 2010 is acknowledged. Accordingly, claims 5, 7, 11 and 13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b).

Claim 15 is objected to as not encompassing the elected invention where applicant states the contrary at page 1 of the reply. The claim depends from a non-elected claim. Accordingly, claim 15 is also withdrawn from further consideration pursuant to 37 CFR 1.142(b).

2. The drawings are objected to because reference numeral "19" (pg. 7 ln. 6) is missing, reference numeral "19" (pg. 7 ln. 6) is missing, reference numerals "30" and "31" (pg. 7 ln. 28) are missing, reference numeral "113" (pg. 8 ln. 30) is missing, and reference numeral "346" (pg. 10 ln. 4) is missing.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject matter set forth in claims 22 and 27 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior

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version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The disclosure is objected to because of the following informalities: page 6, line 27, "15" (second occurrence) apparently should be 16; page 9, lines 5 and 10, "144" apparently should be --145--; and reference numerals "426" and "427" (Fig. 24) lack a detailed description. Appropriate correction is required.

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37

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CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Proper antecedent basis for the "carry means" set forth in claim 1, "resilient" feature set forth in claims 3 and 12, subject matter set forth in claim 4, subject matter set forth in claim 6, subject matter set forth in claim 8 (ln. 2), "castors" set forth in claim 20, "valve assembly" set forth in claim 22, subject matter set forth in claim 25, and subject matter set forth in claim 27, could not be found in the specification. Applicant is reminded claim terminology in mechanical cases should appear in the descriptive portion of the specification by reference to the drawing(s).

5. Claim 22 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The claim recites "a valve assembly to selectively close the aperture." There appears to be no description in the specification concerning this feature.

6. Claims 16-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point

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out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 recites "the carry means comprises a handle that is attached to either the container or the lid." This limitation appears inconsistent with independent claim 1 because the "carry means" appears tailored to the cooperating handles 22 associated with the container and lid. The metes and bounds of this recitation is not ascertainable. Claims 17-19 are similarly indefinite.

Claim 18 recites "the handle is at least partially retractable within the apparatus." This limitation appears inconsistent with Fig. 1 where the handle 36 is depicted as being external to the apparatus recited in claim 1. The metes and bounds of this recitation is not ascertainable.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the

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treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 3, 4, 6, 9, 10, 12, 14, 16-18, 20 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Tiramani et al.

The Tiramani et al. (Tiramani) reference discloses an apparatus comprising: a plastic container 102/103; a plastic lid 102/103; carry means 130; a plurality of snap fitting clips 320; a retractable handle 360 (Fig. 5); wheels 310,312 (Fig. 6); and locking means (col. 7 lns. 39-40), as claimed. Re claim 1, the initial statement of intended use (bathing), and all other functional implications related thereto (infant/child), have been considered but do not appear to impose any patentably distinguishing structure over that disclosed by Tiramani.

9. Claims 1-4, 8-10, 12, 16, 17, 20, 21 and 23 are rejected under 35 U.S.C. 102(a/e) as being anticipated by Adriano.

The Adriano reference discloses a bathing apparatus comprising: a container 10 including a drain 18; a lid 11; carry means 23; wheels 24; and a divider (supporting 19-21), as claimed.

10. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tiramani and Martz.

Although the Tiramani container does not include a shoulder strap, as claimed, attention is directed to the Martz reference which discloses an analogous container which further includes a shoulder strap 36. Therefore, in consideration of Martz, it would have been obvious to one of ordinary skill in the container art to associate a shoulder strap with the Tiramani container in order to facilitate carrying.

11. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adriano.

The choice of shape would appear an obvious choice to be made.

12. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adriano and Noel et al.

Although the drain of the Adriano bathing apparatus does not include a connector, hose and valve assembly, as claimed, attention is directed to the Noel et al. (Noel) reference which discloses an analogous bathing apparatus which further includes



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a drain having a connector 46, hose 47 and valve assembly 56.

Therefore, in consideration of Noel, it would have been obvious to one of ordinary skill in the bathing apparatus art to associate a connector, hose and valve assembly with the Adriano drain in order to facilitate water draining.

13. Claims 1, 3, 4, 6, 9, 10, 12, 16, 17 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sandow and Tiramani.

The Sandow reference discloses an apparatus comprising: a container including an outer casing "A" and an inner tub "a"; a lid "A'"; a handle (Fig. 1); and a divider "C". The container is considered to exhibit structure capable of performing the functions recited in claims 9 and 10. Therefore, Sandow teaches all claimed elements except for the handle being associated with the container and lid.

Although the handle of the Sandow containment article is not associated with the container and lid, as claimed, attention is directed to the Tiramani reference which discloses an analogous containment article which further includes a handle 130 associated with a container 102/103 and lid 102/103. Therefore, in consideration of Tiramani, it would have been obvious to one of ordinary skill in the containment article art

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to associate the Sandow handle with the container and lid in order to maintain the article closed during transport.

14. Claims 1-4, 6, 9, 10, 12, 16, 17, 20, 21 and 23-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Norris and Adriano.

The Norris reference discloses a bathing apparatus comprising: a container including an outer casing 11-16 and an inner tub 30; a lid 18; a handle 25; a divider 22; a mattress 32; and locking means 20,21. Therefore, Norris teaches all elements set forth in claims 1, 3, 4, 6, 9, 10, 12, 16, 17 and 23-27 except for the handle being associated with the container and lid.

Although the handle of the Norris bathing apparatus is not associated with the container and lid, as claimed, attention is directed to the Adriano reference which discloses an analogous bathing apparatus which further includes a handle 23 associated with a container 10 and lid 11. Therefore, in consideration of Adriano, it would have been obvious to one of ordinary skill in the bathing apparatus art to associate the Norris handle with the container and lid in order to maintain the apparatus closed during transport.

Re claim 2, although the container of the Norris bathing apparatus does not include a drain, as claimed, attention is

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again directed to Adriano which discloses a drain 18.

Therefore, in further consideration of Adriano, it would have been obvious to one of ordinary skill in the bathing apparatus art to associate a drain with the Norris container in order to facilitate water removal.

Re claim 20, although the container of the Norris bathing apparatus does not include wheels, as claimed, attention is yet again directed to Adriano which discloses wheels 24. Therefore, in still further consideration of Adriano, it would have been obvious to one of ordinary skill in the bathing apparatus art to associate wheels with the Norris container in order to facilitate transport.

Re claim 21, to the extent the "closure" (cl. 2) is set forth as part of the claimed combination, the Adriano drain includes a plug (col. 1 ln. 63).

15. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Norris and Adriano as applied to claims 9 and 10 above, and further in view of Sheu.

Although the container of the Norris bathing apparatus may not be contoured, attention is directed to the Sheu reference which discloses an analogous bathing apparatus which further includes a container 2 having a contour 6. Therefore, in consideration of Sheu, it would have been obvious to one of

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ordinary skill in the bathing apparatus art to associate a contour with the Norris container in order to better support a child.

16. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

17. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday. The Office central fax number is 571/273-8300.

/Robert M. Fetsuga/  
Robert M. Fetsuga  
Primary Examiner  
Art Unit 3751